

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|----------------------|---|----------------------------|
| Dennis Ray Lowe, | : | |
| Petitioner | : | Civil Action 2:11-cv-01012 |
| v. | : | Judge Smith |
| Samuel Tambi, Warden | : | Magistrate Judge Abel |
| Respondent | : | |

ORDER

Petitioner Dennis Ray Lowe, a State prisoner, brings this action under 28 U.S.C. §2254 alleging that he is in custody in violation of the Constitution of the United States. This matter is before the Court on Magistrate Judge Abel's November 15, 2011 Report and Recommendation that the petition for writ of habeas corpus under 28 U.S.C. §2254 be transferred to the United States Court of Appeals for the Sixth Circuit as a successive petition. (Doc.3).

On November 22, 2011, petitioner Lowe filed objections to the Report and Recommendation (doc. 5). Petitioner argues that his conviction is the result of structural error. He does not contest the fact that he has filed three previous habeas corpus petitions.

Upon *de novo* review as required by 28 U.S.C. §636(b)(1)(B), the Court ADOPTS the Report and Recommendation.

Under the procedures adopted in *In re Jonathan Sims*, 111 F.3d 45, 47 (6th Cir. 1997) this Court hereby TRANSFERS this case to the United States Court of Appeals for

the Sixth Circuit pursuant to 28 U.S.C. §1631.

s/ George C. Smith
George C. Smith
United States District Judge